



# Gordon Lee

YEAR OF CALL: 1998



Gordon is a leading practitioner in Public Law, Immigration and Asylum, Civil Liberties and Human Rights with an emphasis on all aspects of immigration, deportation and unlawful detention work.

He has been instructed in some of the leading cases in these fields in recent years, including before the Supreme Court in *R (DN (Rwanda)) v SSHD* [2020] UKSC 7, [2020] 2 WLR 611 and *R (George) v SSHD* [2014] UKSC 28 [2014] 1 WLR 1831 and he appears regularly before the Court of Appeal and the Administrative Court in cases that raise important points of principle.

‘Consistently produces very high-level work and seems to know everything.’

LEGAL 500, 2020

'Tactically astute, well-prepared to the nth degree and utterly charming in court.'

LEGAL 500 2021 (IMMIGRATION)

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If you would like to get in touch with Gordon please contact the clerking team:

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## ADMINISTRATIVE AND PUBLIC LAW

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Gordon has been instructed in numerous high profile and landmark Public Law cases at all levels up to and including the Supreme Court. He has acted on behalf of a wide variety of Claimants challenging various Government Departments including the Ministry of Justice, the Home Office, the Foreign Office and other bodies including the CPS, the Legal Aid Agency and Courts and Tribunals.

### NOTABLE CASES

***R (DN (Rwanda)) v SSHD* [2020] UKSC 7, [2020] 2 WLR 611; led by Stephen Knafler QC**

Landmark Supreme Court case on the effect of public law errors in decisions distinct from, but bearing on, a decision to detain. The Supreme Court unanimously held that the long standing Court of Appeal decisions in *Draga v SSHD* [2012] EWCA Civ 842 and *Ullah v SSHD* [1995] Imm AR 166 had been wrongly decided and that that the SSHD had relied on ultra vires secondary legislation when seeking to deport the Appellant, rendered the deportation order a nullity and was capable of rendering the consequent detention unlawful and to an entitlement to damages for false imprisonment.

***R (Draga) v SSHD* [2012] EWCA Civ 842; led by Manjit Gill QC**

A public law error in a distinct decision that bore on the decision to detain did not render that detention unlawful where a Tribunal had dismissed an appeal against the distinct decision, even if it later transpired that the decision had been based on an *ultra vires* statutory instrument. The Supreme Court overturned that reasoning in *DN (Rwanda)*(above).

***R (Rudewicz) v Secretary of State for Justice*[\[2013\] QB 410, \[2012\] 3 WLR 901, \[2012\] EWCA Civ 499](#); led by Michael Fordham QC**

A public law and human rights challenge to the decision by the Ministry of Justice to grant a licence under section 25 of the Burial Act 1857, permitting the exhumation of the remains of a Polish priest who was revered by the Polish community in the UK and abroad. The Claimant, a relative of the deceased, argued that the grant of the licence was a violation of her Article 8 and 9 rights under the ECHR and unreasonable as a matter of public law.

***R (Taylor) v Maidstone Crown Court*[\[2003\] EWHC 2555 \(Admin\)](#)**

Successful Judicial Review of the failure of the Crown Court to give sufficient reasons when dismissing an appeal from the Magistrates Court. The Administrative Court held that where there were potentially powerful evidential points in support of a Defendant's version of events, it was unfair of the Crown Court not to give reasons why that version had not been accepted. Additional reasoning given *ex post facto* after the Judicial Review claim was lodged could not mitigate the unfairness.

## **IMMIGRATION: ASYLUM AND HUMAN RIGHTS**

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Gordon is ranked by Legal 500 as a leading junior in immigration and asylum and has a wealth of experience in the field. He regularly appears in the Tribunals, the High Court and the Court of Appeal in immigration and asylum matters and has appeared before the Supreme Court in leading immigration cases. He has a particular interest and expertise in claims for judicial review, cases alleging unlawful detention and higher court appeals. Gordon also has significant experience in advising and appearing on behalf of EEA nationals, colleges and companies facing suspension or revocation of their sponsorship licences, individuals challenging the refusal of points-based system applications and all other matters spanning the whole range of immigration law.

He has been involved in some of the most important cases in recent years concerning asylum, immigration and human rights, statutory interpretation, unlawful detention and deportation.

### **NOTABLE CASES**

#### **Supreme Court**

***R (George) v SSHD*[\[2014\] UKSC 28, \[2014\] 1 WLR 1831; \[2014\] INLR 658, \(2014\) Times, 01 June, \[2014\]](#); led by Stephen Knafler QC**

The Supreme Court considered whether an Appellant's Indefinite Leave to Remain was automatically revoked

(and would not be revived) by a decision to deport him, notwithstanding that he had successfully appealed that decision.

### **Court of Appeal**

#### ***AU (Bangladesh) v SSHD* [\[2020\] EWCA Civ 338](#), [\[2020\] 1 WLR 1562](#); leading *Amy Childs***

Contrary to the findings of the Upper Tribunal, the Court of Appeal concluded that Article 8(1) of the ECHR was engaged by the relationship between a foster carer and her adult foster child. The judgment has wider implications for the analysis of when family life exists between adults.

#### ***SSHD v Garzon* [\[2018\] EWCA Civ 1225](#)**

Successfully resisted the SSHD's appeal against the Tribunal's decision to allow Mr Garzon's appeal against the Respondent's decision to deport him.

#### ***MN-T (Colombia) v SSHD* [\[2016\] EWCA Civ 893](#)**

The Secretary of State unsuccessfully attempted to appeal the decision of the Tribunal to allow the Appellant's appeal against the Secretary of State's decision to deport her following her sentence of 8 years for drug importation and the recommendation of the sentencing judge that she be deported. The Court considered the relevance of delay in the context of deportation and dismissed the Secretary of State's appeal and upheld the decision of the Tribunal.

#### ***R (Akpinar) v Upper Tribunal (IAC) and the SSHD* [\[2014\] EWCA Civ 937](#), [\[2015\] 1 WLR 466](#), [\(2014\) Times, 17 July](#); led by Stephen Knafler QC**

Rare full appeal to the Court of Appeal against a refusal to grant permission in a 'Cart' Judicial Review. The Court considered the recent codification of the deportation provisions in light of *Maslov v Austria* [\[2008\] ECHR 546](#).

#### ***R (AL (Angola))* [\[2010\] EWCA Civ 1611](#)**

A successful challenge to Home Office's policy of denying a right of appeal to decisions to refuse to revoke automatic deportation orders.

### **Administrative Court**

#### ***R (FH) v SSHD* [\[2020\] EWHC 1482 \(Admin\)](#)**

A challenge to the decision of the SSHD to refuse to accept that the passage of time, lack of reoffending and delay in deportation, meant that the Claimant's submissions had a realistic prospect of success before a future Tribunal Judge and therefore amounted to a fresh claim pursuant to paragraph 353 of the Immigration Rules.

#### ***R (Karagul and others) v SSHD* [\[2019\] EWHC 3208 \(Admin\)](#); leading *Emma Daykin***

Successful challenge to the way that the SSHD dealt with Turkish ECAA applications. The Court found that the Defendant's practice was procedurally unfair. Where the SSHD considers that an application is not 'genuine' or is made in bad faith and there is no appeal right, it is likely that she must either interview the applicant or implement a 'minded to refuse' system that allows the applicant to make representations prior to the final decision.

***R (SS (Iraq)) v SSHD* [2019] EWHC 1402 (Admin)**

The decision of the Defendant to prefer her own country information evidence to that set out in the Iraqi country guidance was unlawful and her decision to refuse to treat the Claimant's representations as a fresh claim under paragraph 353 of the Immigration Rules fell to be quashed.

***R (Liral Veget Training and Recruitment) v SSHD* [2018] EWHC 2941 (Admin)**

Judicial Review of decision of Defendant to remove the Claimant from the Tier 2 Sponsors' register;

***R (AB) v SSHD* [2016] EWHC 2751 (Admin), 166 NLJ 7725; led by Stephen Knafler QC**

Question of interpretation of paragraph 334 of the Immigration Rules, could an individual pursue an asylum claim even if they had subsequently left the jurisdiction?

***R (ST) v SSHD* [2012] EWHC 988 (Admin)**

The Defendant's decision to refuse to treat the Claimant's representations that she was at risk of ill-treatment in Pakistan as an Ahmadi as a fresh claim under paragraph 353 of the Immigration Rules contained public law errors and fell to be quashed.

***R (Fediel) v SSHD* [2012] EWHC 257 (Admin)**

The Court ordered the Defendant to allow the Claimant to travel outside the UK to discharge his duties as the leader of the Justice and Equality Movement in Sudan.

***R (Britannia College of Excellence Ltd.) v SSHD* [2012] EWHC 141 (Admin)**

Successful challenge to the decision of the Defendant to remove the Claimant college from the register of Tier 4 sponsors.

## **UNLAWFUL DETENTION, FALSE IMPRISONMENT AND CIVIL LIBERTIES**

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Gordon is regularly instructed in Civil claims and claims for Judicial Review challenging the legality of detention in immigration and mental health cases and in claims that straddle the two areas. He has particular

expertise in claims challenging the detention of the vulnerable.

## **NOTABLE CASES**

### **Supreme Court**

#### ***R (DN (Rwanda)) v SSHD [2020] UKSC 7, [2020] 2 WLR 611; led by Stephen Knafler QC***

As set out above, a landmark Supreme Court case on the effect of public law errors in decisions distinct from, but bearing on, a decision to detain.

### **Court of Appeal**

#### ***R (Hameed & Anor) v Secretary of State for the Home Department [2019] EWCA Civ 456***

The Court of Appeal considered whether the Administrative Court had given sustainable reasons for concluding that the Claimant's detention in the 'Detained Fast Track' ('DFT') had been unlawful. Remitted for a rehearing to the Administrative Court and then settled for substantial damages.

#### ***R (Suckrajh) v SSHD [2011] EWCA Civ 938 (UNHCR intervening); led by Michael Fordham QC***

A challenge to the legality of the Claimant's detention in the Detained Fast Track and to the legality of the DFT generally. Although the claim was dismissed the Court considered that the issues raised by the case ought to be considered by the Secretary of State and the Chief Executive of the UKBA.

### **Administrative Court**

#### ***R (Mohammed) v SSHD [2016] EWHC 406 (Admin)***

Claim for unlawful detention in respect of a Somali national who had been detained for 20 months 'pending removal' to Somaliland.

#### ***S v SSHD [2015] EWHC 2063 (Admin)***

Successful claim that the Claimant had been unlawfully detained within the DFT because inter alia her claim was unsuitable for such an accelerated process and there was independent evidence that she was a victim of torture.

#### ***R (Hall) v SSHD [2011] EWHC 600 (Admin)***

Claim for unlawful detention on the grounds that the Claimant had not been removable to Jamaica during the period of his detention because he was not fit to fly, despite the Defendant's suggestion that he could be removed by sea.

#### ***R (Chen) v SSHD [2009] EWHC 116 (Admin)***

A challenge to the decision of the Defendant to process the Claimant's asylum claim in the DFT and to detain him, notwithstanding his medical condition and evidence that he had been a victim of torture.

## BACKGROUND

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In the early part of his career Gordon practiced extensively in Criminal Law and has experience of defending in serious cases before the Crown Court and before the Criminal Court of Appeal. He is regularly instructed in cases that touch on Public Law issues in the Criminal jurisdiction.

## PROFESSIONAL MEMBERSHIP

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The Royal Institute of International Affairs (Chatham House);

British Institute of International and Comparative Law;

Administrative Law Bar Association;

Criminal Bar Association;

Immigration Law Practitioners Association.

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